

REMARKS

Examiner has required cancellation of claims 14-20.

Applicant has cancelled claims 14-20.

103(a) Rejections

Examiner has rejected claims 1, 2, 5, 7-9, 11, 12 and 25 under 35 U.S.C. 103(a) as being unpatentable over Ilagan (U.S. Patent No. 5,915,807) in view of Bosco (U.S. Patent No. 4,459,761).

Examiner has rejected claims 3, 4 and 13 under 35 U.S.C. 103(a) as being unpatentable over Ilagan (U.S. Patent No. 5,915,807) in view of Bosco (U.S. Patent No. 4,459,761), further in view of Cheatham (U.S. Patent Appl. No. 2002/0170189).

Examiner has rejected claims 6 and 10 under 35 U.S.C. 103(a) as being unpatentable over Ilagan (U.S. Patent No. 5,915,807) in view of Bosco (U.S. Patent No. 4,459,761), further in view of Acopulos (U.S. Patent No. 5,713,135).

Applicant respectfully traverses.

Applicant's Response

Ilagan '807 does not function to serve the purpose of Applicant's invention. Applicant's invention is designed to be able to easily be secured above a palladium window for the measurement of same to facilitate the application of window treatments. The drawing board of Ilagan '807 would make it extremely difficult to secure the device of Ilagan '807, and the drawing board would prevent the use of the device of Ilagan '807 unless the drawing board was smaller than the arc of the window. The Ilagan '807 patent shows the drawing boards equaling the dimensions of the bottom base board, which would imply that for almost any palladium window, the device of Ilagan '807 would be unsuitable for measuring same. Accordingly, Applicant's invention distinguishes over Ilagan '807.

Although rejecting claim 11, Examiner did not address the limitations of claim 11, namely, that the locking surface is dimensioned to receive and retain the projections. Ilagan '807 does not teach a plurality of projections and Bosco '761 does not teach the limitations of a locking surface dimensioned to receive and retain one of said plurality of projections. Particularly, the singular "other arm has dog engagement between adjacent lugs 34" (Bosco '761, col. 3, lines 12-13) clearly is shown to engage either side of lugs 34 (see position of arm 22 in FIG. 1). Applicant's apparatus, as described at page 9, line 13-13 prevents movement of ruler 40 in both directions, since it is retained on nubs 50 or between nubs 50 in spaces 60. Bosco '761 only prevents movement past a lug in one direction only, and cannot function as Applicant's device does to retain the arm locking surface on a projection. Thus, Bosco '761 does not teach a locking surface dimensioned to receive a projection, does not prevent movement of crank arm 22 and/or bellcrank 33, and Applicant respectfully submits that Examiner's rejection of claim 11 is improper. Accordingly, Applicant has amended claim 1 to include the limitations of claim 11 (along with claim 8) into claim 1. In view of Applicant's amendment to claim 1, Applicant respectfully submits that Examiner's rejection of claims 2-7, 9-10, and 12-13, depending ultimately from claim 1, is now moot.

Notwithstanding Examiner's rejection of claim 7, Applicant notes that Examiner did not address the limitations of claim 7, namely, that Applicant's device is comprised of top and a bottom semicircular portions. None of the prior art of record combines both top and bottom semicircular portions. As set forth in the specification, at page 8, lines 20-23, Applicant's bottom portion provides a handgrip that facilitates holding of Applicant's apparatus in position. Further, the bottom semicircular area of Ilagan '807 is blocked by ruler 20, preventing the device of Ilagan '807 from functioning in the fashion of Applicant's apparatus.

Applicant has amended claim 12 to depend from claim 1.

Applicant has amended claim 25 to more clearly point out that the movable arm is dimensioned to receive a projection as is shown in FIGS. 1B and 1C. As noted above for claim 11, none of the prior art discloses such a combination.

Applicant has added new claim 26 to a moveable arm with a locking surface dimensioned to receive and retain one of a plurality of projections. Applicant respectfully

asserts that this distinguishes over the prior art of record for the same reasons as discussed above regarding claim 11. In view of the cancellation of claim 14, no new fee should be required for this independent claim.

Applicant has added new claims 27-30 depending ultimately from claim 25. These new claims more clearly define the movable arm of claim 25 as a U-shaped ruler as is shown in FIGS. 1B-1D. None of the prior art of record discloses a U-shaped movable arm. In view of the cancellation of claims 15-20, no new fee should be required for these new dependent claims.

Miscellaneous

Applicant has cancelled claims 8 and 11.

Applicant has cancelled claims 14-20.

Applicant has added new independent claim 25 as supported in the specification paragraphs beginning at page 8, line 4 and page 9, line 2, as amended. In view of the cancellation of independent claim 21, no new fee should be required for new independent claim 25.

CONCLUSION

The above election and amendments are to form, and, thus, no new matter was added. Given Applicants' amendments, claim cancellations, and withdrawal of claims herein, Applicants' application should now be allowable.

Applicant respectfully requests that the application proceed to issuance in view of the amendments to the claims. Applicant reserves the right to file divisional applications and/or continuation-in-part applications during the pendency of this application and may pursue further examination of the rejected original and withdrawn claims, and Applicant specifically reserves the right to pursue the un-amended original and/or cancelled claims under such a related application.

Applicant respectfully believes that Applicant's application is now in condition for allowance. Otherwise, should the Examiner have any questions regarding this submission, he is invited to contact the undersigned counsel at the address or telephone number below.

Respectfully submitted, this 5th day of October, 2005,



Thomas R. Williamson III, Esq.

Reg. No. 47,180

Email: twilliamson@mkiplaw.com

MYERS & KAPLAN,
INTELLECTUAL PROPERTY LAW, L.L.C.
1899 Powers Ferry Road
Suite 310
Atlanta, GA 30339
Phone: (770) 541-7444
Fax: (770) 541-7448